IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 7 of 1989
Date of Decision: 25.7.2007

Abdul Aziz and another .....Appellants

Versus

Dr. R.S. Bedi and others ....Respondents

Coram: Hon'ble Mr. Justice Hemant Gupta.

Present: None for the appellants.

Shri N.K. Khosla, Advocate, for the respondent-Insurance Company.

HEMANT GUPTA, J.

This order shall dispose of FAO Nos. 7, 95 to 97 and 1330 of 1989 filed by the owner of the Truck bearing No. JKD-506 and FAO Nos. 556 to 559 and 611 of 1989 filed by the claimants, who have received injuries in the motor vehicular accident.

An accident took place on 18.10.1986 between Truck No. JKD-506 and Car No. PBA 4700. The passengers in the car, Dr. R.S. Bedi, his wife Dr. Bimal Bedi and their two minor daughters, namely, Ms. Navneet Kaur and Ms. Upneet Kaur, received injuries. The car was also damaged. Thus, four claim applications were filed for damages on account of injuries received and the 5th claim petition was filed in respect of the damage to the car.

The learned Tribunal, awarded different amount of compensation to the claimants. However, the learned Tribunal absolved the

Insurance Company from the liability to pay compensation, as it was found that the truck was insured in the name of Col. Wali Mohd. and the same was transferred in the names of Abdul Aziz and Abdul Latif, before the accident took place. Thus, it was found that the Insurance Company can be made liable to indemnify Col. Wali Mohd. but since he has transferred the vehicle, therefore, the Insurance Company is not liable to pay compensation.

In respect of the appeals filed by the owner of Truck No. JKD-506, suffice to say that the learned Tribunal has not taken into consideration document Exhibit R.2, an acceptance advice**,** with the validity period from 8.10.1986 to 25.7.1987. Vide the aforesaid document, the policy was transferred in the name of Abdul Aziz and Abdul Latif, on receipt of the transfer fee of Rs.5/- and recovery of no claim benefits amounting to Rs.889/-. Such document shows that the transfer of the policy in terms of Section 103-A of the Motor Vehicles Act, 1939, was allowed by the Insurance Company. Therefore, the Insurance Company, has been wrongly absolved from the liability to indemnify the insured. Hence, the appeals filed by the owner are to be allowed on this ground alone.

Now coming to the appeals filed by the claimants. It may be noticed that Dr. R.S. Bedi, sustained fracture of 8th rib on the right side. He was admitted in the Ohri Hospital, where he remained admitted from 18.10.1986 to 23.10.1986. He has suffered four injuries out of which the fracture of rib was grievous. The learned Tribunal has awarded a sum of Rs.5,000/- for pain and agony, loss of enjoyment of life and professional loss apart from Rs.3000/- as the expenses incurred on his treatment. I am of the opinion that keeping in view the injuries received, the amount of Rs.8000/- is a meagre amount of compensation. Therefore, it would be just

and reasonable to award another sum of Rs.25,000/- to Dr. R.S. Bedi, on account of pain and suffering, loss of profession and enjoyment of life etc.

Dr. Bimal Bedi, had suffered fracture of the 4th, 5th and 6th ribs on the right side. She had fracture of the left scaphoid bone in the left hand and she had echymosis over the right arm and shoulder tip. She remained admitted as indoor patient from 18.10.1986 to 23.10.1986. She visited the hospital on 26.11.1986 for removal of plaster, which was applied at her left hand and again visited the hospital on 20.12.1986. Dr. Mrs. Bimal Bedi is running a maternity hospital. She could not perform her duties in her clinic for 1-1/2 months properly. The learned Tribunal has awarded Rs.5000/- for pain and suffering and Rs.10,000/- as loss of income, apart from Rs.1072/- as expenses incurred on her treatment. Keeping in view the nature of injuries received by Dr. Bimal Bedi and the fact that the plaster was applied on the left hand, which came in way of her discharging her duties as a medical practitioner, I deem it appropriate to grant another sum of Rs.50,000/- to Dr. Bimal Bedi, over and above the compensation awarded by the Tribunal, towards loss of income, pain and suffering etc.

Ms. Navneet Bedi aged 13 years also received multiple injuries with a vertical cut on the left side of her forehead above the eyebrow. Though the wound was stitched by the Doctor but it has left a permanent scar over her forehead on the left side. She remained admitted as indoor patient from 18.10.1986 to 23.10.1986. The Tribunal awarded Rs.1500/- for pain and agony, loss of status and loss of enjoyment of life, apart from Rs.259/- as the expenses on treatment. Though the extent of scar is not available on record, yet keeping in view the injuries received, the amount of compensation awarded by the Tribunal, is meagre.

Consequently, the same is enhanced by another sum of Rs.25,000/-.

Ms. Upneet Bedi aged 12 years, has also suffered multiple injuries including fracture of right humerous in its middle with erythema of part crepitus. She remained admitted as indoor patient upto 23.10.1986 and subsequent for six months, she received outdoor treatment for the aforesaid injuries. The learned Tribunal has awarded a sum of Rs.3000/- as compensation to Ms. Upneet Bedi, on account of pain and agony, loss of status, loss of enjoyment, apart from Rs.609/- as the medical expenses. Keeping in view the nature of injuries received, I deem it appropriate to award a sum of Rs.40,000/- to Ms. Upneet Bedi, in addition to the compensation awarded by the learned Tribunal.

Accordingly, all the appeals are allowed. The Insurance Company is held liable to indemnify the owner. Thus, the liability to pay compensation is joint and several of the appellants -owner, driver and the Insurance Company. The claimants are allowed following additional compensation:-

Sr. No.	**Name of the Claimant**	**Additional Amount of compensation (in Rupees)**
1	Dr. R.S. Bedi	Rs.25,000/-
2	Dr. Mrs. Bimal Bedi	Rs.50,000/-
3	Ms. Navneet Bedi	Rs.25,000/-
4	Ms. Upneet Bedi	Rs.40,000/-

July 25, 2007 (HEMANT GUPTA)
ds JUDGE